



Sen. James F. Clayborne Jr.

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LRB094 03204 MJR 60762 a

1 AMENDMENT TO HOUSE BILL 2197

2 AMENDMENT NO. _____. Amend House Bill 2197 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by adding
5 Section 16-111.4 and the heading of Article XX and Sections
6 20-101, 20-105, 20-110, 20-115, 20-120, 20-125, 20-127,
7 20-130, 20-135, 20-140, 20-145, 20-150, 20-155, 20-160,
8 20-165, 20-170, 20-175, and 20-180 as follows:

9 (220 ILCS 5/16-111.4 new)

10 Sec. 16-111.4. Provisions relating to rates following the
11 mandatory transition period.

12 (a) The General Assembly finds that although competition in
13 the electric services market is creating opportunities for new
14 products and services for retail customers and lower costs for
15 many users of electricity, additional steps should be taken in
16 order to mitigate the rate impacts associated with the end of
17 the mandatory transition period on those residential customers
18 that are served by the State's largest utilities, encourage the
19 use of renewable resources and energy efficiency in competitive
20 markets, and provide the revenues needed to ensure reliable
21 service, while still allowing for the development of an
22 effectively competitive electricity market that operates
23 efficiently and is equitable to all consumers. Accordingly, if
24 the residential customer electric service rates that have been

1 approved by the Commission to take effect at the end of the
2 mandatory transition period for an electric utility reflect a
3 projected increase of more than 15% in the electric utility's
4 average rate charged to residential customers for bundled
5 electric service, such electric utility shall be required to
6 implement for all of its residential customers a rate
7 mitigation plan. If such electric utility serves two million or
8 more residential customers in its service area, its rate
9 mitigation plan shall incorporate a three-phase rate increase
10 with the following limitations on the increases in the electric
11 service rates to customers: (i) in 2007, no more than 7% over
12 the average rate charged to residential customers in 2006; (ii)
13 in 2008, no more than an additional 7% over the average rate
14 charged to residential customers in 2006; and (iii) in 2009, no
15 more than an additional 8% over the average rate charged to
16 residential customers in 2006. If such electric utility serves
17 more than 100,000 and fewer than two million residential
18 customers in its service area, its rate mitigation plan shall
19 incorporate a three-phase rate increase with the following
20 limitations on the increases in the electric service rates to
21 customers: (i) in 2007, no more than 14% over the average rate
22 charged to residential customers in 2006; (ii) in 2008, no more
23 than an additional 14% over the average rate charged to
24 residential customers in 2006; and (iii) in 2009, no more than
25 an additional 14% over the average rate charged to residential
26 customers in 2006. The above limitations on the increases to
27 customers shall be separately calculated for each residential
28 class of service. Such limitations on the increase shall be
29 calculated using the same data used in the electric utility's
30 most recent rate case. Each electric utility required to
31 implement a mitigation plan under this Section shall submit
32 tariffs reflecting such plan to the Commission no later than 30
33 days after the effective date of this amendatory Act of the
34 94th General Assembly. The tariffs shall provide for the first

1 credit that implements the rate mitigation plan and offsets the
2 otherwise applicable rate to appear on the customer's bill no
3 later than bills issued in May 2007 billing period. The
4 Commission shall issue an order with regard to such tariffs no
5 later than April 1, 2007, and may in that order require such
6 amendments as are necessary to bring the tariffs in compliance
7 with the provisions of this subsection (a). The order approving
8 the tariff shall authorize the utility to defer, record as a
9 regulatory asset, and collect over the period 2010 through
10 2012, the amounts that would have otherwise been recovered but
11 for this subsection (a). Such collections shall not include
12 carrying costs.

13 This subsection (a) shall not apply to electric service
14 rates for classes other than the residential customer class.
15 For purposes of this Section, "residential customer" means any
16 customer who takes utility residential service, regardless of
17 the customer's choice of electric supplier.

18 Nothing in this subsection (a) shall be interpreted to
19 limit the Commission's authority over ratemaking or to preclude
20 the Commission from reviewing or approving other or
21 supplemental rate mitigation or phase-in plans or rate designs
22 proposed by an electric utility; or increasing, decreasing, or
23 changing an electric utility's rates; or reviewing or approving
24 individual rates and riders; to the extent otherwise allowed
25 under this Act.

26 (b) An electric utility that is required to file a rate
27 mitigation plan as provided in subsection (a) of this Section
28 and that serves two million or more residential customers in
29 this State, shall, notwithstanding any other provisions of this
30 Act, and without obtaining any approvals from the Commission
31 other than those set forth below, make the following payments
32 or incur the following costs associated with the development of
33 energy efficiency and renewable resources for the benefit of
34 its residential customers, and assistance to those residential

1 customers least able to afford utility services:

2 (1) costs of \$3 million prior to December 31, 2007,
3 associated with either customer education that promotes
4 the use of energy efficiency programs and services by
5 residential customers, maintenance and upgrades of a
6 website that allows such customers to analyze their energy
7 usage and provides incentives for the purchase of energy
8 efficient products, or the provision of energy efficient
9 lightbulbs to residential customers at a discount;

10 (2) payments of \$10 million in aggregate during the
11 period January 2, 2007 through December 31, 2009 toward
12 energy efficiency programs, including demand response
13 programs, that are proposed by the electric utility for its
14 residential customers and approved by the Commission as
15 consistent with the goals and objectives stated in this
16 Section and in Section 16-101A of this Act. The electric
17 utility shall file a description of the programs it
18 proposes to implement under this item (2) with the
19 Commission within 30 days of the effective date of this
20 amendatory Act, and the Commission shall enter its order
21 approving or modifying such programs within 150 days of the
22 date on which the utility's proposal is filed. The
23 Commission may approve a request to continue such a program
24 beyond December 31, 2009, provided that in any order
25 approving such continuation the Commission shall provide
26 for recovery of the ongoing costs associated with such
27 program and specify how such costs will be recovered by the
28 utility;

29 (3) incremental costs associated with the purchase of
30 renewable energy of \$10 million in total aggregate costs
31 during the period beginning January 2, 2007 and ending
32 December 31, 2009, provided that the Commission approve any
33 contract for such purchase that extends beyond December 31,
34 2009 as consistent with the goals and objectives stated in

1 this Section and in Section 16-101A of this Act, and that
2 if the contract for such purchase extends beyond December
3 31, 2009 the Commission shall in its order approving such a
4 purchase provide for recovery of the ongoing costs
5 associated with such purchase and specify how such costs
6 will be recovered by the utility;

7 (4) payments of \$1 million per year for each of the
8 years 2007, 2008, and 2009 associated with a pilot program
9 within the electric utility's service area that is proposed
10 and designed by the utilities for residential customers
11 eligible to participate in the State-administered Low
12 Income Home Energy Assistance Program that has been
13 reviewed and accepted by the Department of Healthcare and
14 Family Services and that provides for the provision of
15 electric service under a percentage of income payment plan;

16 (5) payments of \$1 million per year for each of the
17 years 2007, 2008, and 2009 into a working families
18 assistance fund that is administered in coordination with
19 the Illinois Department of Healthcare and Family Services
20 and provides assistance to residential households within
21 the electric utility's service area that are not eligible
22 for the State-administered Low Income Home Energy
23 Assistance Program and that have household income less than
24 twice the poverty level; and

25 (6) costs of \$4 million during the period January 2,
26 2007 through December 31, 2009 that are associated with a
27 program that provides senior citizens who live in
28 subsidized housing and pay their own electric bills with
29 monthly bill credits in each of the July, August, and
30 September billing periods.

31 (c) An electric utility that is required to file a rate
32 mitigation plan as provided in subsection (a) of this Section
33 and that serves more than 100,000 but fewer than two million
34 residential customers in this State, shall, notwithstanding

1 any other provisions of this Act and without obtaining any
2 approvals from the Commission other than those set forth below,
3 make the following payments or incur the following costs
4 associated with the development of energy efficiency and
5 renewable resources for the benefit of its residential
6 customers and assistance to those residential customers least
7 able to afford utility services:

8 (1) payments of at least \$6 million prior to December
9 31, 2008, toward energy efficiency programs that are
10 proposed by the electric utility for its residential
11 customers and approved by the Commission as consistent with
12 the goals and objectives stated in this Section and in
13 Section 16-101A of this Act. The electric utility shall
14 file a description of the programs it proposes to implement
15 under this item (1) with the Commission within 30 days of
16 the effective date of this amendatory Act, and the
17 Commission shall enter its order approving or modifying
18 such programs within 150 days of the date on which the
19 utility's proposal is filed. The Commission may approve a
20 request to continue such a program beyond December 31,
21 2008, provided that in any order approving such
22 continuation, the Commission shall provide for recovery of
23 the ongoing costs associated with such program and specify
24 how such costs will be recovered by the utility; and

25 (2) costs, of at least a total of \$9 million during the
26 period January 2, 2007 through December 31, 2008, that are
27 associated with programs that assist low income
28 residential customers pay their electric bills, which may
29 include programs similar to those described in subsection
30 (b) of this Section.

31 (d) The Commission shall, on or before December 31, 2009,
32 adopt rules governing the recovery through rates of the costs
33 associated with an electric utility's discretionary investment
34 in programs that promote the use of energy efficiency and

1 renewable resources, other than those specific costs
2 identified in subsections (b) and (c) of this Section.

3 (e) (i) In the event that an electric utility that serves
4 two million or more residential customers in its service area
5 and that is required to file a rate mitigation plan as provided
6 in subsection (a) of this Section is assigned a noninvestment
7 grade credit rating on its senior unsecured debt from three
8 nationally recognized credit rating agencies, the limitations
9 in such rate mitigation plan shall cease to apply, rates
10 reflecting the full residential revenue requirement previously
11 approved for the utility shall be fully in effect, and the
12 utility shall begin recovering all amounts that have been
13 deferred on the terms set forth in the tariff approved by the
14 Commission. In addition, in such event the provisions of
15 subsections (b) and (c) of this Section shall cease to apply
16 and shall be of no further force and effect except for any
17 provision for cost recovery that has been made for the costs,
18 including ongoing costs, of such programs and purchases.

19 (ii) In the event that an electric utility that serves over
20 100,000 and fewer than two million residential customers in its
21 service area and that is required to file a rate mitigation
22 plan as provided in subsection (a) of this Section is assigned
23 a noninvestment grade corporate credit rating or issuer rating
24 from either Standard & Poor's or Moody's Investor Service, the
25 limitations in such rate mitigation plan shall cease to apply,
26 rates reflecting the full residential revenue requirement
27 previously approved for the utility shall be fully in effect,
28 and the utility shall begin recovering all amounts that have
29 been deferred on the terms set forth in the tariff approved by
30 the Commission. In addition, in such event the provisions of
31 subsections (b) and (c) of this Section shall cease to apply
32 and shall be of no further force and effect except for any
33 provisions for cost recovery that has been made for the costs,
34 including ongoing costs, of such programs and purchases.

1 (f) In order to facilitate the recovery of amounts deferred
2 under this Section, the electric utility may issue rate
3 mitigation bonds pursuant to Article XX of this Act.

4 (220 ILCS 5/Art. XX heading new)

5 ARTICLE XX. RATE MITIGATION

6 (220 ILCS 5/20-101 new)

7 Sec. 20-101. Short title. This Article may be cited as the
8 Rate Mitigation Law of 2006.

9 (220 ILCS 5/20-105 new)

10 Sec. 20-105. Definitions. As used in this Article:

11 "Assignee" means a person to whom an electric utility or
12 another assignee assigns, sells, or transfers, other than as
13 security, all or a portion of its right to or interest in
14 bondable property. Except as specifically provided in this
15 Article, an assignee shall not be subject to the provisions of
16 this Act and any rules adopted under this Act.

17 "Bond charge" means a charge, expressed as an amount per
18 kilowatt hour, that is imposed on residential customers,
19 pursuant to Section 16-111.4 and Section 20-130 of this Act, to
20 implement a financing order, as modified at any time pursuant
21 to the provisions of this Article.

22 "Bondable property" means property consisting of the
23 irrevocable right to impose, charge, collect, and receive, and
24 be paid from collections of, bond charges, in the amount
25 necessary to provide for the full recovery of all qualified
26 bondable costs as set forth in the related financing order, all
27 rights of the related electric utility under the financing
28 order, including, without limitation, all rights to obtain
29 periodic adjustments of the related bond charges pursuant to
30 subsection (b) of Section 20-115, and all revenues,
31 collections, payments, money, and proceeds arising under, or

1 with respect to, all of the foregoing.

2 "Commission" means the Illinois Commerce Commission or any
3 successor agency.

4 "Customer" means any person that is an end user taking
5 tariffed service as defined in Section 16-102 of this Act from
6 an electric utility and that is connected to any part of the
7 transmission and distribution system within an electric
8 utility's service territory within this State.

9 "Deferred power supply amounts" means the power supply
10 costs incurred by an electric utility (or for the purposes of
11 this Article estimated to be incurred during the years 2007,
12 2008, and 2009) through any power procurement process approved
13 by the Federal Energy Regulatory Commission or the Illinois
14 Commerce Commission and that would have been recovered through
15 rates approved by the Commission but that are not recovered
16 during the years 2007 through 2009 as a result of the
17 limitations stated in Section 16-111.4.

18 "Electric utility" has the meaning set forth in Section
19 16-102 of the Public Utilities Act.

20 "Financing entity" means an electric utility, a special
21 purpose entity, or any other assignee of bondable property that
22 issues rate mitigation bonds. Except as specifically provided
23 in this Act, a financing entity that is not an electric utility
24 shall not be subject to the provisions of this Act and any
25 rules adopted under this Act.

26 "Financing order" means one or more irrevocable written
27 orders issued by the Commission pursuant to this Article that
28 determines the amount or method of calculating the amount of
29 qualified bondable costs and the initial amount or method of
30 calculating the initial amount of bond charges authorized to be
31 imposed to recover qualified bondable costs, including the
32 costs to be financed from the proceeds of the rate mitigation
33 bonds, as well as on-going costs associated with servicing and
34 credit enhancing the rate mitigation bonds, and provides the

1 electric utility specific authority to issue or cause to be
2 issued, directly or indirectly, rate mitigation bonds through a
3 financing entity and related matters, as provided in this
4 Article. The order shall become effective immediately upon the
5 written consent of the electric utility related to the order,
6 as provided in this Article.

7 "Issuance date" means the date on which any rate mitigation
8 bonds are issued and sold.

9 "Non-bypassable" means, with regard to the right of a
10 financing party, or an electric utility on its behalf, to
11 impose and collect bond charges from all existing and future
12 residential customers, the ability to collect such charges from
13 all such customers located within an electric utility's service
14 territory even if those customers elect to purchase electricity
15 from another supplier or choose to operate new on-site
16 generation, or even if the utility goes out of business and its
17 service area is acquired by another utility, including a
18 municipal utility.

19 "Pledgee" means any entity to which bondable property is
20 pledged or in favor of which a security interest or other lien
21 in bondable property is created to secure the payment of rate
22 mitigation bonds and related costs and expenses, such as costs
23 of collection and enforcement.

24 "Qualified bondable costs" means an amount equal to or less
25 than the amount of any deferred power supply amounts of an
26 electric utility that are identified in a financing order,
27 together with:

28 (1) the cost of retiring existing debt or equity
29 capital of the electric utility, including accrued
30 interest, premium, and other fees, costs, and charges
31 relating thereto, with the proceeds of the financing of
32 bondable property;

33 (2) if requested by an electric utility in its
34 application for a financing order, federal, State, and

1 local tax liabilities associated with the recovery of
2 qualified regulatory assets and deferred power supply
3 amounts; and

4 (3) the costs incurred to issue, service, or refinance
5 rate mitigation bonds, including interest, acquisition, or
6 redemption premium, and other financing costs, whether
7 paid upon issuance or over the life of the rate mitigation
8 bonds, including, but not limited to, legal, accounting,
9 rating agency, trustee, and underwriting fees, credit
10 enhancements, service charges, overcollateralization,
11 interest rate cap, swap or collar, yield maintenance,
12 maturity guarantee, or other hedging agreements, equity
13 investments, operating costs, and other related fees,
14 costs and charges, or to assign, sell, or otherwise
15 transfer bondable property;

16 provided that the total amount of qualified bondable costs for
17 an electric utility shall not exceed its deferred power supply
18 amounts.

19 "Rate mitigation bonds" means bonds, notes, certificates
20 of participation or beneficial interest, or other evidences of
21 indebtedness or ownership issued pursuant to an indenture,
22 contract, or other agreement of an electric utility or a
23 financing entity, the proceeds of which are used, directly or
24 in-directly, to recover, finance, or refinance qualified
25 bondable costs and which are, directly or indirectly, secured
26 by or payable from bondable property. References in this
27 Article to principal, interest, and acquisition or redemption
28 premium with respect to rate mitigation bonds that are issued
29 in the form of certificates of participation or beneficial
30 interest or other evidences of ownership shall refer to the
31 comparable payments on such securities.

32 "Residential customer" means any customer who takes any
33 bundled or unbundled tariffed service, including delivery
34 service, from the utility which service is classified as

1 "residential" for ratemaking purposes, and thus receives
2 utility goods or services through the utility's transmission
3 and distribution system.

4 "Transmission and distribution system" means, with respect
5 to an electric utility, any facility or equipment that is used
6 for the transmission, distribution, or delivery of electricity
7 to the customers of the electric utility, including, but not
8 limited to, the land, structures, meters, lines, switches, and
9 all other appurtenances thereof and thereto, owned or
10 controlled by the electric utility within this State.

11 (220 ILCS 5/20-110 new)

12 Sec. 20-110. Authorization for issuance of rate mitigation
13 bonds.

14 (a) For purposes of recovering qualified bondable costs,
15 the Commission shall authorize the issuance of rate mitigation
16 bonds by an electric utility or other financing entity
17 designated by the electric utility. Rate mitigation bonds shall
18 be secured through an irrevocable financing order imposing a
19 non-bypassable bond charge, as provided in Section 20-130, and
20 shall provide for collection of the bond charge by the electric
21 utility, an assignee, a financing entity, or a pledgee of
22 bondable property. The net proceeds of the rate mitigation
23 bonds shall be used by or on behalf of the electric utility for
24 the purposes of recovering qualified bondable costs.
25 Notwithstanding any other provision of law to the contrary,
26 except for adjustments authorized under subsection (b) of
27 Section 20-115, bond charges permitted by a financing order
28 shall not be offset, reduced, adjusted, or otherwise diminished
29 either directly or indirectly, and the obligation of customers
30 to pay bond charges shall not be subject to any offset,
31 defense, reduction, or counterclaims, including any resulting
32 from the utility's failure to perform past, present, or future
33 services.

1 (b) For the purposes of recovering qualified bondable
2 costs, the issuance of rate mitigation bonds for an electric
3 utility shall be authorized by the Commission if the issuance
4 of the rate mitigation bonds and the imposition of the bond
5 charge authorized by the financing order are reasonably
6 expected to provide the electric utility with access to lower
7 cost financing than would otherwise be available using
8 traditional utility financing methods.

9 (c) The financing order shall authorize the issuance of
10 rate mitigation bonds with scheduled amortization upon
11 issuance of not less than three and not more than 6 years, as
12 determined by the electric utility pursuant to item (2) of
13 subsection (a) of Section 20-115, with a legal final maturity
14 up to 2 years after the end of the scheduled amortization
15 period, provided however that the scheduled amortization
16 period shall not extend beyond December 31, 2012.

17 (d) The financing order shall specify how the proceeds of
18 the bonds shall be used to recover deferred power supply
19 amounts and also specify the procedures to be used to ensure
20 that customers do not pay more than the deferred power supply
21 amounts as a result of recovering such amounts through the
22 issuance of rate mitigation bonds.

23 (e) Rate mitigation bonds may be issued in one or more
24 series, in one or more offerings, and each such series may
25 consist of one or more classes of rate mitigation bonds.

26 (f) The Commission shall impose no conditions in its
27 financing order other than those authorized in this Article.

28 (g) The Commission's findings under this Section shall be
29 final and not subject to change or collateral attack in any
30 other proceeding.

31 (220 ILCS 5/20-115 new)

32 Sec. 20-115. Financing orders.

33 (a) A financing order issued by the Commission pursuant to this

1 Article shall:

2 (1) authorize the electric utility or other financing
3 entity designated by the electric utility to issue rate
4 mitigation bonds to finance the qualified bondable costs
5 and to pledge or assign, sell, or otherwise transfer the
6 related bondable property without further order of the
7 Commission;

8 (2) afford the electric utility substantial
9 flexibility in establishing the terms and conditions of any
10 rate mitigation bonds and authorize the electric utility,
11 prior to the closing of the issuance and sale of the
12 related rate mitigation bonds, to fix the amount of the
13 initial bond charge to be imposed upon, charged to, and
14 collected and received from the residential customers of
15 the electric utility in an amount not less than the amount
16 necessary to fully recover qualified bondable costs,
17 reflecting the actual rate of interest thereon and all
18 other actual qualified bondable costs, including any
19 required overcollateralization, associated with the
20 issuance of such rate mitigation bonds;

21 (3) require the electric utility to file a notice with
22 the Commission, not later than 5 business days after the
23 issuance date of the rate mitigation bonds, of the terms
24 and conditions of any rate mitigation bonds secured by or
25 payable from the bond charges, including information as to
26 the servicing fees, if any, imposed with respect to the
27 collection of the bond charges and the schedule for
28 payments of principal and interest on the rate mitigation
29 bonds. Notwithstanding any other provision of law, (i) the
30 Commission shall not have authority to disapprove the terms
31 and conditions of the rate mitigation bonds as set forth in
32 the notice, which terms and conditions shall not be subject
33 to change or modification, and (ii) the notice to the
34 Commission required to be given by the electric utility

1 under this item (3) and the issuance and sale of rate
2 mitigation bonds shall not be subject to the provisions of
3 this Act or any other law or regulation regulating the sale
4 of property or assets or the issuance of securities by an
5 electric utility and no such law shall affect the rights of
6 bondholders; and

7 (4) require that the electric utility's tariffs
8 implementing any nonbypassable bond charge shall provide
9 that the amount of such charge be stated separately from
10 the amounts otherwise billed by such electric utility for
11 the rates applicable to the utility service taken by such
12 residential customers, including bundled service rates and
13 delivery service rates.

14 (b) Each financing order shall provide for mandatory
15 periodic adjustments of the bond charges that are the subject
16 of the financing order, upon filing by the affected electric
17 utility, an assignee, a financing entity, or pledgee, to
18 conform the bond charges to the schedule of payments of
19 principal and interest on the rate mitigation bonds provided to
20 the Commission by the electric utility pursuant to item (3) of
21 subsection (a) of this Section. The adjustments shall be made
22 at least annually. Each adjustment shall be formula-based,
23 shall be in the amount required to ensure receipt of revenues
24 sufficient to provide for the timely payment of qualified
25 bondable costs, including, without limitation, the timely
26 payment of principal and interest and acquisition or redemption
27 premium on rate mitigation bonds issued to finance qualified
28 bondable costs, which shall be recovered over the term of the
29 rate mitigation bonds and in accordance with the schedule of
30 payments of principal and interest on the rate mitigation bonds
31 provided to the Commission by the electric utility pursuant to
32 item (3) of subsection (a) of this Section. Each adjustment
33 shall become effective on the date it is requested to be
34 effective by the electric utility, provided that date is no

1 less than 45 days after the filing of the request for
2 adjustment with the Commission. Each request for an adjustment
3 shall become effective as filed absent a determination by the
4 Commission of manifest error. The Commission shall make a
5 determination as to manifest error with respect to the request
6 within 30 days after its filing and, if the Commission makes a
7 determination of manifest error, the Commission shall resolve
8 the error in a timely manner so that the appropriate adjustment
9 will become effective on the date it was requested to be
10 effective. Periodic adjustments shall not in any way affect the
11 validity or irrevocability of the financing order or any sale,
12 assignment, or other transfer of or any pledge or security
13 interest granted with respect to the related bondable property
14 and shall not affect rights of bondholders. For purposes of
15 this subsection (b), "manifest error" means an arithmetic error
16 evident on the face of the filing.

17 (c) A financing order and the authority to impose, charge,
18 collect, and receive the bond charges authorized thereby shall
19 remain in effect until the related qualified bondable costs,
20 including, without limitation, the principal of, and accrued
21 interest and acquisition or redemption premium on any rate
22 mitigation bonds issued to finance such qualified bondable
23 costs, have been paid in full and all other obligations and
24 undertakings with respect thereto have been fully satisfied.
25 Until the qualified bondable costs, including, without
26 limitation, the principal of and accrued interest and
27 acquisition or redemption premium on any rate mitigation bonds
28 issued to finance such qualified bondable costs, have been paid
29 in full and all other obligations and undertakings with respect
30 thereto have been fully satisfied, the electric utility shall
31 be obligated to provide or deliver electricity through its
32 transmission and distribution system to its customers and shall
33 have the right to impose, charge, collect, and receive the bond
34 charges arising therefrom from its residential customers,

1 which rights and obligations may be assignable solely within
2 the discretion of the electric utility.

3 (d) Each financing order shall provide that any bond
4 charges collected and held by the assignee or trustee of the
5 related rate mitigation bonds after the related qualified
6 bondable costs, including, without limitation, the principal
7 of and accrued interest and acquisition or redemption premium
8 on any rate mitigation bonds issued to finance such qualified
9 bondable costs, have been paid in full and all other
10 obligations and undertakings with respect thereto have been
11 fully satisfied shall be applied as a credit to reduce charges
12 to residential customers of the electric utility, except that
13 all qualified bondable costs as quantified in the financing
14 orders with respect to the electric utility shall be aggregated
15 for purposes of determining whether or not the total bond
16 charges held exceed the total qualified bondable costs
17 attributable to such electric utility and provided, further,
18 that the electric utility need not make the credit if the
19 credit will result in a recharacterization of the tax,
20 accounting, and other intended characteristics of the rate
21 mitigation bonds, including, but not limited to, a
22 re-characterization of the following intended characteristics:

23 (1) the recognition of rate mitigation bonds as debt on
24 the balance sheet of the electric utility for financial
25 accounting purposes;

26 (2) treatment of the rate mitigation bonds as debt of
27 the electric utility or its affiliates for federal income
28 tax purposes; and

29 (3) treatment of the transfer of bondable property by
30 the electric utility as a true sale for bankruptcy
31 purposes.

32 (e) An electric utility may commingle the revenues received
33 from amounts charged, collected, and received under bond
34 charges for qualified bondable costs approved in any one or

1 more financing orders with other funds of the electric utility,
2 which shall in no way affect the validity or irrevocability of
3 any financing order issued in connection therewith or any sale,
4 assignment, or other transfer of or any pledge or security
5 interest granted with respect to the bondable property created
6 thereby.

7 (f) Except as provided otherwise in this Article, all
8 proceedings in connection with the determination of qualified
9 bondable costs, bond charges, and financing orders shall be
10 exempt from the other provisions of this Act and any rules
11 adopted under this Act.

12 (220 ILCS 5/20-120 new)

13 Sec. 20-120. Financing orders become irrevocable upon
14 issuance.

15 (a) Notwithstanding any other provision of law, each
16 financing order and the bond charges authorized therein shall
17 become irrevocable upon the issuance of the order and its
18 becoming effective pursuant to Section 20-135. The financing
19 order shall constitute a vested, presently existing property
20 right when it becomes effective and the bond charges, and the
21 bondable property shall constitute vested, presently existing
22 property rights upon their creation, pledge and transfer.
23 Following the transfer and receipt of consideration, the
24 property right in bondable property shall be vested ab initio
25 in such assignee.

26 (b) Neither the Commission nor any other governmental
27 entity shall have the authority, directly or indirectly,
28 legally or equitably, to rescind, alter, repeal, modify, or
29 amend a final financing order nor, following the vesting of
30 property rights as provided in subsection (a) of this Section,
31 to revalue, re-evaluate, or revise the amount of qualified
32 bondable costs, to determine that the bond charges or the
33 revenues required to recover qualified bondable costs are

1 unjust or unreasonable, or in any way to reduce or impair the
2 value of bondable property, nor shall the amount of revenues
3 arising with respect thereto be subject to reduction,
4 impairment, postponement, or termination, provided, however,
5 that nothing in this Section precludes adjustments of the bond
6 charges in accordance with the provisions of subsection (b) of
7 Section 20-115.

8 (220 ILCS 5/20-125 new)

9 Sec. 20-125. State pledge to holders of rate mitigation
10 bonds; orders not pledge of State's credit; guarantee
11 adjustments.

12 (a) The State does hereby pledge and agree with the holders
13 of any rate mitigation bonds issued under the authority of this
14 Article, with the pledgee, owner, or assignee of bondable
15 property, with any financing entity that has issued rate
16 mitigation bonds with respect to which a financing order has
17 been issued, and with any person who may enter into agreements
18 with an electric utility or an assignee or pledgee thereof or a
19 financing entity pursuant to this Article, that the State will
20 not limit, alter, or impair any bondable property or other
21 rights vested in an electric utility or an assignee or pledgee
22 thereof or a financing entity or vested in the holders of any
23 rate mitigation bonds pursuant to a financing order until the
24 rate mitigation bonds, together with the interest and
25 acquisition or redemption premium, if any, thereon, are fully
26 paid and discharged or until the agreements are fully performed
27 on the part of the electric utility, any assignee or pledgee
28 thereof, or the financing entity, or in any way limit, alter,
29 impair, or reduce the value or amount of the bondable property
30 approved by a financing order or of the bond charges authorized
31 therein, provided, however, that nothing in this Section
32 precludes the adjustment of the bond charges in accordance with
33 subsection (b) of Section 20-115. Any financing entity is

1 authorized to include this covenant and undertaking of the
2 State in any documentation with respect to the rate mitigation
3 bonds issued by the financing entity.

4 (b) Neither the rate mitigation bonds nor the related
5 financing order issued under this Article shall constitute a
6 debt or liability of the State or of any political subdivision
7 of the State, nor shall they constitute a pledge of the full
8 faith and credit of the State or any of its political
9 subdivisions. The issuance of rate mitigation bonds under this
10 Article shall not directly, indirectly, or contingently
11 obligate the State or any political subdivision of the State to
12 levy or pledge any form of taxation therefor or to make an
13 appropriation for their payment, and any rate mitigation bonds
14 shall be payable solely from the bondable property and other
15 proceeds or property as may be pledged therefor.

16 (220 ILCS 5/20-127 new)

17 Sec. 20-127. Proceeds of rate mitigation bonds. All
18 proceeds received from the issuance of rate mitigation bonds
19 shall not be considered income or revenue to the electric
20 utility for any State tax purposes.

21 (220 ILCS 5/20-130 new)

22 Sec. 20-130. Residential customers assessed for bond
23 charges. The bond charges established pursuant to financing
24 orders shall be assessed against all residential customers of
25 the electric utility, regardless of whether such customers take
26 bundled tariff services from the utility or purchase power from
27 other suppliers. Bond charges shall be established in
28 accordance with Sections 20-110 and 20-115 and shall apply
29 equally to each such residential customer of the electric
30 utility based on the amount of electricity delivered to the
31 residential customer through the transmission and distribution
32 system of the electric utility or any successor.

1 (220 ILCS 5/20-135 new)

2 Sec. 20-135. Effectiveness of financing order. Each
3 financing order shall be effective only in accordance with the
4 terms of that financing order and upon the written consent of
5 the petitioning electric utility to all of those terms.

6 (220 ILCS 5/20-140 new)

7 Sec. 20-140. Recourse against issuer only. Rate mitigation
8 bonds shall be recourse only to the credit and assets of the
9 issuer of the rate mitigation bonds.

10 (220 ILCS 5/20-145 new)

11 Sec. 20-145. Electric utility to maintain records of bond
12 charges. An electric utility shall maintain or cause to be
13 maintained records of bond charges that have been assessed and
14 collected by the electric utility for each financing order
15 applicable to the electric utility. The electric utility
16 records and any records of a financing entity shall be made
17 available by the electric utility for inspection and
18 examination within a reasonable time upon demand therefor by
19 the Commission or the related financing entity.

20 (220 ILCS 5/20-150 new)

21 Sec. 20-150. Security.

22 (a) An electric utility or its assignee may sell, assign,
23 or otherwise transfer all or portions of its interest in
24 bondable property to assignees or financing entities in
25 connection with the issuance of rate mitigation bonds. In
26 addition, an electric utility, an assignee, or a financing
27 entity may pledge, grant a security interest in, or encumber
28 bondable property as collateral for rate mitigation bonds.

29 (b) Upon the transfer to an assignee and receipt of
30 consideration therefor, bondable property shall constitute

1 presently existing property for all purposes, including for
2 contracts securing rate mitigation bonds, whether or not the
3 revenues and proceeds arising with respect thereto have accrued
4 and notwithstanding the fact that the value of the property
5 right may depend upon consumers using electricity or, in those
6 instances where consumers are customers of a particular
7 electric utility, the electric utility performing certain
8 services. The validity of any sale, assignment, or other
9 transfer of bondable property shall not be defeated or
10 adversely affected by the commingling by the electric utility
11 of revenues received from amounts charged, collected, and
12 received as bond charges with other funds of the electric
13 utility. Any description of the bondable property in a security
14 agreement or financing statement filed with respect to the
15 transfer of bondable property in accordance with Section 9-501
16 of the Uniform Commercial Code shall be sufficient if it refers
17 to the financing order establishing the bondable property.

18 (c) A perfected security interest in bondable property is a
19 continuously perfected security interest in all revenues and
20 proceeds arising with respect thereto, whether or not the
21 revenues and proceeds shall have accrued. The validity and
22 relative priority of a pledge of or security interest in
23 bondable property shall not be defeated or adversely affected
24 by the commingling by the electric utility of revenues received
25 from amounts charged, collected, and received as bond charges
26 with other funds of the electric utility. Any description of
27 the bondable property in a security agreement or financing
28 statement filed with respect to the granting of a security
29 interest in bondable property in accordance with Section 9-501
30 of the Uniform Commercial Code shall be sufficient if it refers
31 to the financing order establishing the bondable property, as
32 provided by subsection (f) of Section 9-108 of the Uniform
33 Commercial Code.

34 (d) In the event of default by the electric utility or its

1 assignee in payment of revenues arising with respect to the
2 bondable property and upon the application by the pledgees or
3 transferees of the bondable property, the Commission or any
4 court of competent jurisdiction shall order the sequestration
5 and payment to the pledgees or transferees of revenues arising
6 with respect to the bondable property. The application shall
7 not limit any other remedies available to the pledgees or
8 transferees by reason of the default. The order shall remain in
9 full force and effect, notwithstanding any bankruptcy,
10 reorganization, or other insolvency proceedings with respect
11 to the debtor, pledgor, or transferor of the bondable property.
12 Any amounts in excess of amounts necessary to satisfy
13 obligations then outstanding on or related to rate mitigation
14 bonds shall be applied in the manner set forth in subsection
15 (d) of Section 20-115.

16 (e) To the extent that any interest in bondable property is
17 sold or assigned, or is pledged as collateral, the electric
18 utility shall be authorized to enter into a contract with the
19 pledgee, the assignee, or the financing entity providing that
20 the electric utility: (i) shall continue to operate its
21 transmission and distribution system to provide service to its
22 customers, (ii) shall impose, charge, collect, and receive bond
23 charges in respect of the bondable property for the benefit and
24 account of the pledgee, the assignee, or the financing entity,
25 and (iii) shall account for and remit those amounts to and for
26 the account of the pledgee, the assignee, or the financing
27 entity. In the event of a default by the electric utility in
28 respect of charging, collecting, and receiving revenues
29 derived from bond charges and upon the application by the
30 pledgee, the assignee, or the financing entity, the Commission
31 or any court of competent jurisdiction shall, by order,
32 designate a trustee or other entity to act in the place of the
33 electric utility to impose, meter, charge, collect, and receive
34 bond charges in respect of the bondable property for the

1 benefit and account of the pledgee, the assignee, or the
2 financing entity. The Commission may, at its discretion,
3 establish criteria in its financing order for the selection of
4 any entity that may become a servicer of bondable property upon
5 the default of the electric utility. The Commission may also,
6 at its discretion, establish in its financing order financial
7 or other criteria that must be met by any other entity,
8 including an alternative retail electric supplier, that is or
9 may be authorized to collect bond charges on behalf of the
10 electric utility or any assignee or financing entity.

11 (f) An agreement by an assignor of bondable property not to
12 assert any defense, claim, or set-off against an assignee of
13 the bondable property shall be enforceable against the assignor
14 by the assignee and by any successor or subsequent assignee
15 thereof.

16 (220 ILCS 5/20-155 new)

17 Sec. 20-155. Transfer of bondable property.

18 (a) If an agreement by an electric utility or its assignee
19 to transfer bondable property expressly states that the
20 transfer is a sale or other absolute transfer, then,
21 notwithstanding any other provisions of law:

22 (1) the transfer shall constitute a sale by the
23 electric utility or its assignee of all right, title, and
24 interest of the electric utility or its assignee, as
25 applicable, in and to the bondable property;

26 (2) the transfer shall constitute a sale or other
27 absolute transfer of, and not a borrowing secured by, the
28 bondable property;

29 (3) upon execution and delivery of the agreement, the
30 electric utility or its assignee shall have no right,
31 title, or interest in or to the bondable property, except
32 to the extent of any retained equity permitted by the
33 provisions of this Article; and

1 (4) the characterization of a transfer as a sale or
2 other absolute transfer shall not be affected or impaired
3 in any manner by, without limitation: (i) the assignor's
4 retention, or acquisition as part of the assignment
5 transaction or otherwise, of a pari passu equity interest
6 in bondable property or the fact that only a portion of the
7 bondable property is otherwise transferred; (ii) the
8 assignor's retention, or acquisition as part of the
9 assignment transaction or otherwise, of a subordinate
10 equity interest or other provision of credit enhancement on
11 terms substantially commensurate with market practices;
12 (iii) the fact that the electric utility acts as the
13 collector or servicer of bond charges; (iv) the assignor's
14 retention of bare legal title to bondable property for the
15 purpose of servicing or supervising the servicing of such
16 property and collections with respect thereto; (v) the
17 treatment of the electric utility as the "issuer" of any
18 rate mitigation bonds for purposes of the United States
19 securities laws; or (vi) the treatment of such transfer as
20 a financing for federal, State, or local tax purposes or
21 financial accounting purposes.

22 (b) The transfer shall be perfected against any third party
23 if:

24 (1) the Commission has issued a financing order with
25 respect to the bondable property;

26 (2) the agreement has been executed and delivered by
27 the electric utility or its assignee; and

28 (3) a financing statement has been filed with respect
29 to the transfer of the bondable property in accordance with
30 Article 9 of the Uniform Commercial Code.

31 (220 ILCS 5/20-160 new)

32 Sec. 20-160. Successor to electric utility. Any successor
33 to an electric utility, whether pursuant to any bankruptcy,

1 reorganization, or other insolvency proceedings or pursuant to
2 any merger, consolidation, or sale or transfer of assets of the
3 electric utility, by operation of law, as a result of electric
4 power industry restructuring, or otherwise, shall perform and
5 satisfy all obligations and be entitled to the same rights of
6 its predecessor electric utility under this Article or the
7 financing order or any contract entered into pursuant to this
8 Article in the same manner and to the same extent as the
9 predecessor electric utility, including, but not limited to,
10 charging, collecting, receiving, and paying to the person
11 entitled thereto the revenues in respect of the bond charges
12 relating to the bondable property. Bondable property and any
13 payments in respect of bondable property, including, without
14 limitation, bond charges, shall not be subject to any setoffs,
15 counterclaims, surcharges, or defenses by the electric
16 utility, any customer, or any other person, in connection with
17 the bankruptcy, insolvency, or default of the electric utility
18 or otherwise.

19 (220 ILCS 5/20-165 new)

20 Sec. 20-165. Application for financing order; estimation
21 of deferred power supply amounts; treatment of over-estimate or
22 under-estimate.

23 (a) The electric utility may file one or more applications
24 for a financing order at any time after January 2, 2007 and
25 prior to December 31, 2009. In any such application, the
26 electric utility shall provide the total deferred power supply
27 amounts that are estimated to be accrued as a result of Section
28 16-111.4 of this Act, and the total amount of such deferred
29 power supply amounts actually accrued through the calendar year
30 just prior to the year in which the application is filed. Any
31 financing order application may request the recovery of
32 qualified bondable costs through the issuance of rate
33 mitigation bonds in an amount equal to or less than the sum of

1 (i) all deferred power supply amounts accrued or projected to
2 accrue through the projected date of issuance of the rate
3 mitigation bonds, together with (ii) deferred power supply
4 amounts projected to be incurred from the projected date of
5 issuance of the rate mitigation bonds through a period ending
6 not later than twelve months following the projected issuance
7 date of the rate mitigation bonds which are the subject of the
8 financing order, or if earlier, December 31, 2009. Any
9 financing order application also shall specify how the proceeds
10 of the bonds will be used to recover the deferred power supply
11 amounts (including the retirement of debt or equity incurred or
12 issued to pay such amounts) related to the qualified bondable
13 costs.

14 (b) Whether or not the electric utility has filed an
15 application pursuant to subsection (a) of this Section, the
16 electric utility may also file an application for a financing
17 order no later than January 31, 2010. In such application, the
18 electric utility shall provide the total deferred power supply
19 amounts accrued through December 31, 2009 to the extent not
20 included in an application filed pursuant to subsection (a) and
21 related to rate mitigation bonds issued and sold pursuant to
22 such prior application.

23 (c) To the extent that the actual amount of qualified
24 bondable costs, as determined after the issuance of the rate
25 mitigation bonds, exceeds the principal amount of the rate
26 mitigation bonds issued and sold, the electric utility shall be
27 entitled to recover the difference in a subsequent rate or
28 other proceeding. To the extent that the actual amount of
29 qualified bondable costs, as determined after the issuance of
30 the rate mitigation bonds, is less than the principal amount of
31 the rate mitigation bonds issued and sold, the electric utility
32 must apply the difference in a subsequent rate or other
33 proceeding as a credit to reduce charges to residential
34 customers.

1 (220 ILCS 5/20-170 new)

2 Sec. 20-170. Expedited procedure for processing petitions
3 for and judicial review of financing orders. The following
4 procedures shall apply to the processing of petitions and
5 judicial review of the resulting financing orders:

6 (1) Notwithstanding any other provision of law, the
7 Commission shall render a written financing order
8 approving a petition seeking a financing order that meets
9 the requirements of this Article not later than 35 days
10 after the date the petition is filed.

11 (2) Upon the issuance of a financing order, the
12 Commission shall forthwith cause a certified copy of the
13 order to be served upon each party entitled to a copy of
14 the order. The electric utility shall, within 10 days after
15 service upon it, file with the Commission its written
16 consent to the order or its objections to the order.

17 (3) Any party to the proceedings resulting in a
18 financing order who claims to be aggrieved by the order,
19 including but not limited to, any electric utility that has
20 withheld its consent and objected to the order, may seek
21 judicial review of the order before the Illinois Supreme
22 Court in accordance with the applicable Illinois Supreme
23 Court rules and the provisions of this Article. Review on
24 appeal shall be based solely on the record before the
25 Commission and briefs to the court and, at the court's
26 discretion, oral argument, and shall be the exclusive
27 remedy for the parties involved in a proceeding resulting
28 in a financing order.

29 (220 ILCS 5/20-175 new)

30 Sec. 20-175. Subsequent ratemaking. The consideration or
31 approval by the Commission of a petition by any electric
32 utility under this Article, including the periodic adjustment

1 provided in subsection (b) of Section 20-115, shall be wholly
2 separate from and shall not be used in the Commission's
3 consideration of, any ratemaking or other proceeding involving
4 the electric utility, except as otherwise provided in this
5 Article. Without limiting the generality of the foregoing, in
6 all ratemaking proceedings following the issuance of rate
7 mitigation bonds, and except as provided in Section 16-111.4
8 and in this Article XX, for ratemaking purposes the qualified
9 bondable costs recovered through the issuance of the rate
10 mitigation bonds shall be excluded from rate base and the rate
11 mitigation bonds shall be excluded from the electric utility's
12 capitalization and weighted average cost of the capital
13 calculation and shall not otherwise be taken into account for
14 any purpose.

15 (220 ILCS 5/20-180 new)

16 Sec. 20-180. Severability. Effective on the date that rate
17 mitigation bonds are first issued under this Article, if any
18 provision of this Article is held to be invalid or is
19 invalidated, superseded, replaced, repealed, or expires for
20 any reason, that occurrence shall not affect the validity of
21 any transfer or action taken under this Article by an electric
22 utility, an assignee, or a financing entity, or any rights
23 previously created under a financing order under this Article.
24 Any such transfer, action or rights shall remain in full force
25 and effect with respect to all rate mitigation bonds issued or
26 authorized in a financing order to be issued under this Article
27 prior to the date that the provision is held to be invalid or
28 is invalidated, superseded, replaced, or repealed, or that
29 expires for any reason.

30 Section 10. The Uniform Commercial Code is amended by
31 changing Sections 9-102, 9-108, 9-203, 9-301, and 9-515 as
32 follows:

1 (810 ILCS 5/9-102) (from Ch. 26, par. 9-102)

2 Sec. 9-102. Definitions and index of definitions.

3 (a) Article 9 definitions. In this Article:

4 (1) "Accession" means goods that are physically united
5 with other goods in such a manner that the identity of the
6 original goods is not lost.

7 (2) "Account", except as used in "account for", means a
8 right to payment of a monetary obligation, whether or not
9 earned by performance, (i) for property that has been or is
10 to be sold, leased, licensed, assigned, or otherwise
11 disposed of, (ii) for services rendered or to be rendered,
12 (iii) for a policy of insurance issued or to be issued,
13 (iv) for a secondary obligation incurred or to be incurred,
14 (v) for energy provided or to be provided, (vi) for the use
15 or hire of a vessel under a charter or other contract,
16 (vii) arising out of the use of a credit or charge card or
17 information contained on or for use with the card, or
18 (viii) as winnings in a lottery or other game of chance
19 operated or sponsored by a State, governmental unit of a
20 State, or person licensed or authorized to operate the game
21 by a State or governmental unit of a State. The term
22 includes health-care-insurance receivables. The term does
23 not include (i) rights to payment evidenced by chattel
24 paper or an instrument, (ii) commercial tort claims, (iii)
25 deposit accounts, (iv) investment property, (v)
26 letter-of-credit rights or letters of credit, or (vi)
27 rights to payment for money or funds advanced or sold,
28 other than rights arising out of the use of a credit or
29 charge card or information contained on or for use with the
30 card.

31 (3) "Account debtor" means a person obligated on an
32 account, chattel paper, or general intangible. The term
33 does not include persons obligated to pay a negotiable

1 instrument, even if the instrument constitutes part of
2 chattel paper.

3 (4) "Accounting", except as used in "accounting for",
4 means a record:

5 (A) authenticated by a secured party;

6 (B) indicating the aggregate unpaid secured
7 obligations as of a date not more than 35 days earlier
8 or 35 days later than the date of the record; and

9 (C) identifying the components of the obligations
10 in reasonable detail.

11 (5) "Agricultural lien" means an interest, other than a
12 security interest, in farm products:

13 (A) which secures payment or performance of an
14 obligation for goods or services furnished in
15 connection with a debtor's farming operation;

16 (B) which is created by statute in favor of a
17 person that in the ordinary course of its business
18 furnished goods or services to a debtor in connection
19 with a debtor's farming operation; and

20 (C) whose effectiveness does not depend on the
21 person's possession of the personal property.

22 (6) "As-extracted collateral" means:

23 (A) oil, gas, or other minerals that are subject to
24 a security interest that:

25 (i) is created by a debtor having an interest
26 in the minerals before extraction; and

27 (ii) attaches to the minerals as extracted; or

28 (B) accounts arising out of the sale at the
29 wellhead or minehead of oil, gas, or other minerals in
30 which the debtor had an interest before extraction.

31 (7) "Authenticate" means:

32 (A) to sign; or

33 (B) to execute or otherwise adopt a symbol, or
34 encrypt or similarly process a record in whole or in

1 part, with the present intent of the authenticating
2 person to identify the person and adopt or accept a
3 record.

4 (8) "Bank" means an organization that is engaged in the
5 business of banking. The term includes savings banks,
6 savings and loan associations, credit unions, and trust
7 companies.

8 (8.5) "Bondable property" has the meaning set forth in
9 Section 20-105 of the Public Utilities Act.

10 (9) "Cash proceeds" means proceeds that are money,
11 checks, deposit accounts, or the like.

12 (10) "Certificate of title" means a certificate of
13 title with respect to which a statute provides for the
14 security interest in question to be indicated on the
15 certificate as a condition or result of the security
16 interest's obtaining priority over the rights of a lien
17 creditor with respect to the collateral.

18 (11) "Chattel paper" means a record or records that
19 evidence both a monetary obligation and a security interest
20 in specific goods, a security interest in specific goods
21 and software used in the goods, a security interest in
22 specific goods and license of software used in the goods, a
23 lease of specific goods, or a lease of specified goods and
24 a license of software used in the goods. In this paragraph,
25 "monetary obligation" means a monetary obligation secured
26 by the goods or owed under a lease of the goods and
27 includes a monetary obligation with respect to software
28 used in the goods. The term does not include (i) charters
29 or other contracts involving the use or hire of a vessel or
30 (ii) records that evidence a right to payment arising out
31 of the use of a credit or charge card or information
32 contained on or for use with the card. If a transaction is
33 evidenced by records that include an instrument or series
34 of instruments, the group of records taken together

1 constitutes chattel paper.

2 (12) "Collateral" means the property subject to a
3 security interest or agricultural lien. The term includes:

4 (A) proceeds to which a security interest
5 attaches;

6 (B) accounts, chattel paper, payment intangibles,
7 and promissory notes that have been sold; and

8 (C) goods that are the subject of a consignment.

9 (13) "Commercial tort claim" means a claim arising in
10 tort with respect to which:

11 (A) the claimant is an organization; or

12 (B) the claimant is an individual and the claim:

13 (i) arose in the course of the claimant's
14 business or profession; and

15 (ii) does not include damages arising out of
16 personal injury to or the death of an individual.

17 (14) "Commodity account" means an account maintained
18 by a commodity intermediary in which a commodity contract
19 is carried for a commodity customer.

20 (15) "Commodity contract" means a commodity futures
21 contract, an option on a commodity futures contract, a
22 commodity option, or another contract if the contract or
23 option is:

24 (A) traded on or subject to the rules of a board of
25 trade that has been designated as a contract market for
26 such a contract pursuant to federal commodities laws;
27 or

28 (B) traded on a foreign commodity board of trade,
29 exchange, or market, and is carried on the books of a
30 commodity intermediary for a commodity customer.

31 (16) "Commodity customer" means a person for which a
32 commodity intermediary carries a commodity contract on its
33 books.

34 (17) "Commodity intermediary" means a person that:

1 (A) is registered as a futures commission merchant
2 under federal commodities law; or

3 (B) in the ordinary course of its business provides
4 clearance or settlement services for a board of trade
5 that has been designated as a contract market pursuant
6 to federal commodities law.

7 (18) "Communicate" means:

8 (A) to send a written or other tangible record;

9 (B) to transmit a record by any means agreed upon
10 by the persons sending and receiving the record; or

11 (C) in the case of transmission of a record to or
12 by a filing office, to transmit a record by any means
13 prescribed by filing-office rule.

14 (19) "Consignee" means a merchant to which goods are
15 delivered in a consignment.

16 (20) "Consignment" means a transaction, regardless of
17 its form, in which a person delivers goods to a merchant
18 for the purpose of sale and:

19 (A) the merchant:

20 (i) deals in goods of that kind under a name
21 other than the name of the person making delivery;

22 (ii) is not an auctioneer; and

23 (iii) is not generally known by its creditors
24 to be substantially engaged in selling the goods of
25 others;

26 (B) with respect to each delivery, the aggregate
27 value of the goods is \$1,000 or more at the time of
28 delivery;

29 (C) the goods are not consumer goods immediately
30 before delivery; and

31 (D) the transaction does not create a security
32 interest that secures an obligation.

33 (21) "Consignor" means a person that delivers goods to
34 a consignee in a consignment.

1 (22) "Consumer debtor" means a debtor in a consumer
2 transaction.

3 (23) "Consumer goods" means goods that are used or
4 bought for use primarily for personal, family, or household
5 purposes.

6 (24) "Consumer-goods transaction" means a consumer
7 transaction in which:

8 (A) an individual incurs an obligation primarily
9 for personal, family, or household purposes; and

10 (B) a security interest in consumer goods secures
11 the obligation.

12 (25) "Consumer obligor" means an obligor who is an
13 individual and who incurred the obligation as part of a
14 transaction entered into primarily for personal, family,
15 or household purposes.

16 (26) "Consumer transaction" means a transaction in
17 which (i) an individual incurs an obligation primarily for
18 personal, family, or household purposes, (ii) a security
19 interest secures the obligation, and (iii) the collateral
20 is held or acquired primarily for personal, family, or
21 household purposes. The term includes consumer-goods
22 transactions.

23 (27) "Continuation statement" means an amendment of a
24 financing statement which:

25 (A) identifies, by its file number, the initial
26 financing statement to which it relates; and

27 (B) indicates that it is a continuation statement
28 for, or that it is filed to continue the effectiveness
29 of, the identified financing statement.

30 (28) "Debtor" means:

31 (A) a person having an interest, other than a
32 security interest or other lien, in the collateral,
33 whether or not the person is an obligor;

34 (B) a seller of accounts, chattel paper, payment

1 intangibles, or promissory notes; or

2 (C) a consignee.

3 (29) "Deposit account" means a demand, time, savings,
4 passbook, nonnegotiable certificates of deposit,
5 uncertificated certificates of deposit, nontransferrable
6 certificates of deposit, or similar account maintained
7 with a bank. The term does not include investment property
8 or accounts evidenced by an instrument.

9 (30) "Document" means a document of title or a receipt
10 of the type described in Section 7-201(2).

11 (31) "Electronic chattel paper" means chattel paper
12 evidenced by a record or records consisting of information
13 stored in an electronic medium.

14 (32) "Encumbrance" means a right, other than an
15 ownership interest, in real property. The term includes
16 mortgages and other liens on real property.

17 (33) "Equipment" means goods other than inventory,
18 farm products, or consumer goods.

19 (34) "Farm products" means goods, other than standing
20 timber, with respect to which the debtor is engaged in a
21 farming operation and which are:

22 (A) crops grown, growing, or to be grown,
23 including:

24 (i) crops produced on trees, vines, and
25 bushes; and

26 (ii) aquatic goods produced in aquacultural
27 operations;

28 (B) livestock, born or unborn, including aquatic
29 goods produced in aquacultural operations;

30 (C) supplies used or produced in a farming
31 operation; or

32 (D) products of crops or livestock in their
33 unmanufactured states.

34 (35) "Farming operation" means raising, cultivating,

1 propagating, fattening, grazing, or any other farming,
2 livestock, or aquacultural operation.

3 (36) "File number" means the number assigned to an
4 initial financing statement pursuant to Section 9-519(a).

5 (37) "Filing office" means an office designated in
6 Section 9-501 as the place to file a financing statement.

7 (38) "Filing-office rule" means a rule adopted
8 pursuant to Section 9-526.

9 (39) "Financing statement" means a record or records
10 composed of an initial financing statement and any filed
11 record relating to the initial financing statement.

12 (40) "Fixture filing" means the filing of a financing
13 statement covering goods that are or are to become fixtures
14 and satisfying Section 9-502(a) and (b). The term includes
15 the filing of a financing statement covering goods of a
16 transmitting utility which are or are to become fixtures.

17 (41) "Fixtures" means goods that have become so related
18 to particular real property that an interest in them arises
19 under real property law.

20 (42) "General intangible" means any personal property,
21 including things in action, other than accounts, chattel
22 paper, commercial tort claims, deposit accounts,
23 documents, goods, instruments, investment property,
24 letter-of-credit rights, letters of credit, money, and
25 oil, gas, or other minerals before extraction. The term
26 includes payment intangibles and software.

27 (43) "Good faith" means honesty in fact and the
28 observance of reasonable commercial standards of fair
29 dealing.

30 (44) "Goods" means all things that are movable when a
31 security interest attaches. The term includes (i)
32 fixtures, (ii) standing timber that is to be cut and
33 removed under a conveyance or contract for sale, (iii) the
34 unborn young of animals, (iv) crops grown, growing, or to

1 be grown, even if the crops are produced on trees, vines,
2 or bushes, and (v) manufactured homes. The term also
3 includes a computer program embedded in goods and any
4 supporting information provided in connection with a
5 transaction relating to the program if (i) the program is
6 associated with the goods in such a manner that it
7 customarily is considered part of the goods, or (ii) by
8 becoming the owner of the goods, a person acquires a right
9 to use the program in connection with the goods. The term
10 does not include a computer program embedded in goods that
11 consist solely of the medium in which the program is
12 embedded. The term also does not include accounts, chattel
13 paper, commercial tort claims, deposit accounts,
14 documents, general intangibles, instruments, investment
15 property, letter-of-credit rights, letters of credit,
16 money, or oil, gas, or other minerals before extraction.

17 (45) "Governmental unit" means a subdivision, agency,
18 department, county, parish, municipality, or other unit of
19 the government of the United States, a State, or a foreign
20 country. The term includes an organization having a
21 separate corporate existence if the organization is
22 eligible to issue debt on which interest is exempt from
23 income taxation under the laws of the United States.

24 (46) "Health-care-insurance receivable" means an
25 interest in or claim under a policy of insurance which is a
26 right to payment of a monetary obligation for health-care
27 goods or services provided.

28 (47) "Instrument" means a negotiable instrument or any
29 other writing that evidences a right to the payment of a
30 monetary obligation, is not itself a security agreement or
31 lease, and is of a type that in ordinary course of business
32 is transferred by delivery with any necessary indorsement
33 or assignment. The term does not include (i) investment
34 property, (ii) letters of credit, (iii) nonnegotiable

1 certificates of deposit, (iv) uncertificated certificates
2 of deposit, (v) nontransferrable certificates of deposit,
3 or (vi) writings that evidence a right to payment arising
4 out of the use of a credit or charge card or information
5 contained on or for use with the card.

6 (48) "Inventory" means goods, other than farm
7 products, which:

8 (A) are leased by a person as lessor;

9 (B) are held by a person for sale or lease or to be
10 furnished under a contract of service;

11 (C) are furnished by a person under a contract of
12 service; or

13 (D) consist of raw materials, work in process, or
14 materials used or consumed in a business.

15 (49) "Investment property" means a security, whether
16 certificated or uncertificated, security entitlement,
17 securities account, commodity contract, or commodity
18 account.

19 (50) "Jurisdiction of organization", with respect to a
20 registered organization, means the jurisdiction under
21 whose law the organization is organized.

22 (51) "Letter-of-credit right" means a right to payment
23 or performance under a letter of credit, whether or not the
24 beneficiary has demanded or is at the time entitled to
25 demand payment or performance. The term does not include
26 the right of a beneficiary to demand payment or performance
27 under a letter of credit.

28 (52) "Lien creditor" means:

29 (A) a creditor that has acquired a lien on the
30 property involved by attachment, levy, or the like;

31 (B) an assignee for benefit of creditors from the
32 time of assignment;

33 (C) a trustee in bankruptcy from the date of the
34 filing of the petition; or

1 (D) a receiver in equity from the time of
2 appointment.

3 (53) "Manufactured home" means a structure,
4 transportable in one or more sections, which, in the
5 traveling mode, is eight body feet or more in width or 40
6 body feet or more in length, or, when erected on site, is
7 320 or more square feet, and which is built on a permanent
8 chassis and designed to be used as a dwelling with or
9 without a permanent foundation when connected to the
10 required utilities, and includes the plumbing, heating,
11 air-conditioning, and electrical systems contained
12 therein. The term includes any structure that meets all of
13 the requirements of this paragraph except the size
14 requirements and with respect to which the manufacturer
15 voluntarily files a certification required by the United
16 States Secretary of Housing and Urban Development and
17 complies with the standards established under Title 42 of
18 the United States Code.

19 (54) "Manufactured-home transaction" means a secured
20 transaction:

21 (A) that creates a purchase-money security
22 interest in a manufactured home, other than a
23 manufactured home held as inventory; or

24 (B) in which a manufactured home, other than a
25 manufactured home held as inventory, is the primary
26 collateral.

27 (55) "Mortgage" means a consensual interest in real
28 property, including fixtures, which secures payment or
29 performance of an obligation.

30 (56) "New debtor" means a person that becomes bound as
31 debtor under Section 9-203(d) by a security agreement
32 previously entered into by another person.

33 (57) "New value" means (i) money, (ii) money's worth in
34 property, services, or new credit, or (iii) release by a

1 transferee of an interest in property previously
2 transferred to the transferee. The term does not include an
3 obligation substituted for another obligation.

4 (58) "Noncash proceeds" means proceeds other than cash
5 proceeds.

6 (59) "Obligor" means a person that, with respect to an
7 obligation secured by a security interest in or an
8 agricultural lien on the collateral, (i) owes payment or
9 other performance of the obligation, (ii) has provided
10 property other than the collateral to secure payment or
11 other performance of the obligation, or (iii) is otherwise
12 accountable in whole or in part for payment or other
13 performance of the obligation. The term does not include
14 issuers or nominated persons under a letter of credit.

15 (60) "Original debtor", except as used in Section
16 9-310(c), means a person that, as debtor, entered into a
17 security agreement to which a new debtor has become bound
18 under Section 9-203(d).

19 (61) "Payment intangible" means a general intangible
20 under which the account debtor's principal obligation is a
21 monetary obligation.

22 (62) "Person related to", with respect to an
23 individual, means:

24 (A) the spouse of the individual;

25 (B) a brother, brother-in-law, sister, or
26 sister-in-law of the individual;

27 (C) an ancestor or lineal descendant of the
28 individual or the individual's spouse; or

29 (D) any other relative, by blood or marriage, of
30 the individual or the individual's spouse who shares
31 the same home with the individual.

32 (63) "Person related to", with respect to an
33 organization, means:

34 (A) a person directly or indirectly controlling,

1 controlled by, or under common control with the
2 organization;

3 (B) an officer or director of, or a person
4 performing similar functions with respect to, the
5 organization;

6 (C) an officer or director of, or a person
7 performing similar functions with respect to, a person
8 described in subparagraph (A);

9 (D) the spouse of an individual described in
10 subparagraph (A), (B), or (C); or

11 (E) an individual who is related by blood or
12 marriage to an individual described in subparagraph
13 (A), (B), (C), or (D) and shares the same home with the
14 individual.

15 (64) "Proceeds", except as used in Section 9-609(b),
16 means the following property:

17 (A) whatever is acquired upon the sale, lease,
18 license, exchange, or other disposition of collateral;

19 (B) whatever is collected on, or distributed on
20 account of, collateral;

21 (C) rights arising out of collateral;

22 (D) to the extent of the value of collateral,
23 claims arising out of the loss, nonconformity, or
24 interference with the use of, defects or infringement
25 of rights in, or damage to, the collateral; or

26 (E) to the extent of the value of collateral and to
27 the extent payable to the debtor or the secured party,
28 insurance payable by reason of the loss or
29 nonconformity of, defects or infringement of rights
30 in, or damage to, the collateral.

31 (65) "Promissory note" means an instrument that
32 evidences a promise to pay a monetary obligation, does not
33 evidence an order to pay, and does not contain an
34 acknowledgment by a bank that the bank has received for

1 deposit a sum of money or funds.

2 (66) "Proposal" means a record authenticated by a
3 secured party which includes the terms on which the secured
4 party is willing to accept collateral in full or partial
5 satisfaction of the obligation it secures pursuant to
6 Sections 9-620, 9-621, and 9-622.

7 (67) "Public-finance transaction" means a secured
8 transaction in connection with which:

9 (A) debt securities are issued;

10 (B) all or a portion of the securities issued have
11 an initial stated maturity of at least 20 years; and

12 (C) the debtor, obligor, secured party, account
13 debtor or other person obligated on collateral,
14 assignor or assignee of a secured obligation, or
15 assignor or assignee of a security interest is a State
16 or a governmental unit of a State.

17 (68) "Pursuant to commitment", with respect to an
18 advance made or other value given by a secured party, means
19 pursuant to the secured party's obligation, whether or not
20 a subsequent event of default or other event not within the
21 secured party's control has relieved or may relieve the
22 secured party from its obligation.

23 (69) "Record", except as used in "for record", "of
24 record", "record or legal title", and "record owner", means
25 information that is inscribed on a tangible medium or which
26 is stored in an electronic or other medium and is
27 retrievable in perceivable form.

28 (70) "Registered organization" means an organization
29 organized solely under the law of a single State or the
30 United States and as to which the State or the United
31 States must maintain a public record showing the
32 organization to have been organized.

33 (71) "Secondary obligor" means an obligor to the extent
34 that:

1 (A) the obligor's obligation is secondary; or

2 (B) the obligor has a right of recourse with
3 respect to an obligation secured by collateral against
4 the debtor, another obligor, or property of either.

5 (72) "Secured party" means:

6 (A) a person in whose favor a security interest is
7 created or provided for under a security agreement,
8 whether or not any obligation to be secured is
9 outstanding;

10 (B) a person that holds an agricultural lien;

11 (C) a consignor;

12 (D) a person to which accounts, chattel paper,
13 payment intangibles, or promissory notes have been
14 sold;

15 (E) a trustee, indenture trustee, agent,
16 collateral agent, or other representative in whose
17 favor a security interest or agricultural lien is
18 created or provided for; or

19 (F) a person that holds a security interest arising
20 under Section 2-401, 2-505, 2-711(3), 2A-508(5),
21 4-210, or 5-118.

22 (73) "Security agreement" means an agreement that
23 creates or provides for a security interest.

24 (74) "Send", in connection with a record or
25 notification, means:

26 (A) to deposit in the mail, deliver for
27 transmission, or transmit by any other usual means of
28 communication, with postage or cost of transmission
29 provided for, addressed to any address reasonable
30 under the circumstances; or

31 (B) to cause the record or notification to be
32 received within the time that it would have been
33 received if properly sent under subparagraph (A).

34 (75) "Software" means a computer program and any

1 supporting information provided in connection with a
2 transaction relating to the program. The term does not
3 include a computer program that is included in the
4 definition of goods.

5 (76) "State" means a State of the United States, the
6 District of Columbia, Puerto Rico, the United States Virgin
7 Islands, or any territory or insular possession subject to
8 the jurisdiction of the United States.

9 (77) "Supporting obligation" means a letter-of-credit
10 right or secondary obligation that supports the payment or
11 performance of an account, chattel paper, a document, a
12 general intangible, an instrument, or investment property.

13 (78) "Tangible chattel paper" means chattel paper
14 evidenced by a record or records consisting of information
15 that is inscribed on a tangible medium.

16 (79) "Termination statement" means an amendment of a
17 financing statement which:

18 (A) identifies, by its file number, the initial
19 financing statement to which it relates; and

20 (B) indicates either that it is a termination
21 statement or that the identified financing statement
22 is no longer effective.

23 (80) "Transmitting utility" means a person primarily
24 engaged in the business of:

25 (A) operating a railroad, subway, street railway,
26 or trolley bus;

27 (B) transmitting communications electrically,
28 electromagnetically, or by light;

29 (C) transmitting goods by pipeline or sewer; or

30 (D) transmitting or producing and transmitting
31 electricity, steam, gas, or water.

32 (b) Definitions in other Articles. The following
33 definitions in other Articles apply to this Article:

34 "Applicant". Section 5-102.

1 "Beneficiary". Section 5-102.
2 "Broker". Section 8-102.
3 "Certificated security". Section 8-102.
4 "Check". Section 3-104.
5 "Clearing corporation". Section 8-102.
6 "Contract for sale". Section 2-106.
7 "Customer". Section 4-104.
8 "Entitlement holder". Section 8-102.
9 "Financial asset". Section 8-102.
10 "Holder in due course". Section 3-302.
11 "Issuer" (with respect to a letter of credit or
12 letter-of-credit right). Section 5-102.
13 "Issuer" (with respect to a security). Section 8-201.
14 "Lease". Section 2A-103.
15 "Lease agreement". Section 2A-103.
16 "Lease contract". Section 2A-103.
17 "Leasehold interest". Section 2A-103.
18 "Lessee". Section 2A-103.
19 "Lessee in ordinary course of business". Section 2A-103.
20 "Lessor". Section 2A-103.
21 "Lessor's residual interest". Section 2A-103.
22 "Letter of credit". Section 5-102.
23 "Merchant". Section 2-104.
24 "Negotiable instrument". Section 3-104.
25 "Nominated person". Section 5-102.
26 "Note". Section 3-104.
27 "Proceeds of a letter of credit". Section 5-114.
28 "Prove". Section 3-103.
29 "Sale". Section 2-106.
30 "Securities account". Section 8-501.
31 "Securities intermediary". Section 8-102.
32 "Security". Section 8-102.
33 "Security certificate". Section 8-102.
34 "Security entitlement". Section 8-102.

1 "Uncertificated security". Section 8-102.

2 (c) Article 1 definitions and principles. Article 1
3 contains general definitions and principles of construction
4 and interpretation applicable throughout this Article.

5 (Source: P.A. 91-893, eff. 7-1-01; 92-819, eff. 8-21-02.)

6 (810 ILCS 5/9-108) (from Ch. 26, par. 9-108)

7 Sec. 9-108. Sufficiency of description.

8 (a) Sufficiency of description. Except as otherwise
9 provided in subsections (c), (d), and (e), a description of
10 personal or real property is sufficient, whether or not it is
11 specific, if it reasonably identifies what is described.

12 (b) Examples of reasonable identification. Except as
13 otherwise provided in subsection (d), a description of
14 collateral reasonably identifies the collateral if it
15 identifies the collateral by:

16 (1) specific listing;

17 (2) category;

18 (3) except as otherwise provided in subsection (e), a
19 type of collateral defined in the Uniform Commercial Code;

20 (4) quantity;

21 (5) computational or allocational formula or
22 procedure; or

23 (6) except as otherwise provided in subsection (c), any
24 other method, if the identity of the collateral is
25 objectively determinable.

26 (c) Supergeneric description not sufficient. A description
27 of collateral as "all the debtor's assets" or "all the debtor's
28 personal property" or using words of similar import does not
29 reasonably identify the collateral.

30 (d) Investment property. Except as otherwise provided in
31 subsection (e), a description of a security entitlement,
32 securities account, or commodity account is sufficient if it
33 describes:

1 (1) the collateral by those terms or as investment
2 property; or

3 (2) the underlying financial asset or commodity
4 contract.

5 (e) When description by type insufficient. A description
6 only by type of collateral defined in the Uniform Commercial
7 Code is an insufficient description of:

8 (1) a commercial tort claim; or

9 (2) in a consumer transaction, consumer goods, a
10 security entitlement, a securities account, or a commodity
11 account.

12 (f) A description of bondable property is sufficient if it
13 refers to the financing order establishing the bondable
14 property, as defined in Section 20-105 of the Public Utilities
15 Act.

16 (Source: P.A. 91-893, eff. 7-1-01.)

17 (810 ILCS 5/9-203) (from Ch. 26, par. 9-203)

18 Sec. 9-203. Attachment and enforceability of security
19 interest; proceeds; supporting obligations; formal requisites.

20 (a) Attachment. A security interest attaches to collateral
21 when it becomes enforceable against the debtor with respect to
22 the collateral, unless an agreement expressly postpones the
23 time of attachment.

24 (b) Enforceability. Except as otherwise provided in
25 subsections (c) through (i), a security interest is enforceable
26 against the debtor and third parties with respect to the
27 collateral only if:

28 (1) value has been given;

29 (2) the debtor has rights in the collateral or the
30 power to transfer rights in the collateral to a secured
31 party; and

32 (3) one of the following conditions is met:

33 (A) the debtor has authenticated a security

1 agreement that provides a description of the
2 collateral and, if the security interest covers timber
3 to be cut, a description of the land concerned;

4 (B) the collateral is not a certificated security
5 and is in the possession of the secured party under
6 Section 9-313 pursuant to the debtor's security
7 agreement;

8 (C) the collateral is a certificated security in
9 registered form and the security certificate has been
10 delivered to the secured party under Section 8-301
11 pursuant to the debtor's security agreement; or

12 (D) the collateral is deposit accounts, electronic
13 chattel paper, investment property, or
14 letter-of-credit rights, and the secured party has
15 control under Section 9-104, 9-105, 9-106, or 9-107
16 pursuant to the debtor's security agreement.

17 (c) Other UCC provisions. Subsection (b) is subject to
18 Section 4-210 on the security interest of a collecting bank,
19 Section 5-118 on the security interest of a letter-of-credit
20 issuer or nominated person, Section 9-110 on a security
21 interest arising under Article 2 or 2A, and Section 9-206 on
22 security interests in investment property and Section 9-515 on
23 security interests in bondable property.

24 (d) When person becomes bound by another person's security
25 agreement. A person becomes bound as debtor by a security
26 agreement entered into by another person if, by operation of
27 law other than this Article or by contract:

28 (1) the security agreement becomes effective to create
29 a security interest in the person's property; or

30 (2) the person becomes generally obligated for the
31 obligations of the other person, including the obligation
32 secured under the security agreement, and acquires or
33 succeeds to all or substantially all of the assets of the
34 other person.

1 (e) Effect of new debtor becoming bound. If a new debtor
2 becomes bound as debtor by a security agreement entered into by
3 another person:

4 (1) the agreement satisfies subsection (b)(3) with
5 respect to existing or after-acquired property of the new
6 debtor to the extent the property is described in the
7 agreement; and

8 (2) another agreement is not necessary to make a
9 security interest in the property enforceable.

10 (f) Proceeds and supporting obligations. The attachment of
11 a security interest in collateral gives the secured party the
12 rights to proceeds provided by Section 9-315 and is also
13 attachment of a security interest in a supporting obligation
14 for the collateral.

15 (g) Lien securing right to payment. The attachment of a
16 security interest in a right to payment or performance secured
17 by a security interest or other lien on personal or real
18 property is also attachment of a security interest in the
19 security interest, mortgage, or other lien.

20 (h) Security entitlement carried in securities account.
21 The attachment of a security interest in a securities account
22 is also attachment of a security interest in the security
23 entitlements carried in the securities account.

24 (i) Commodity contracts carried in commodity account. The
25 attachment of a security interest in a commodity account is
26 also attachment of a security interest in the commodity
27 contracts carried in the commodity account.

28 (j) The attachment of a security interest in bondable
29 transition property shall attach automatically to such
30 bondable property at the time that such bondable transition
31 property comes into existence in accordance with Section 20-150
32 of the Public Utilities Act.

33 (Source: P.A. 91-893, eff. 7-1-01.)

1 (810 ILCS 5/9-301) (from Ch. 26, par. 9-301)

2 Sec. 9-301. Law governing perfection and priority of
3 security interests. Except as otherwise provided in Sections
4 9-303 through 9-306.1, the following rules determine the law
5 governing perfection, the effect of perfection or
6 nonperfection, and the priority of a security interest in
7 collateral:

8 (1) Except as otherwise provided in this Section, while
9 a debtor is located in a jurisdiction, the local law of
10 that jurisdiction governs perfection, the effect of
11 perfection or nonperfection, and the priority of a security
12 interest in collateral.

13 (2) While collateral is located in a jurisdiction, the
14 local law of that jurisdiction governs perfection, the
15 effect of perfection or nonperfection, and the priority of
16 a possessory security interest in that collateral.

17 (3) Except as otherwise provided in paragraph (4),
18 while negotiable documents, goods, instruments, money, or
19 tangible chattel paper is located in a jurisdiction, the
20 local law of that jurisdiction governs:

21 (A) perfection of a security interest in the goods
22 by filing a fixture filing;

23 (B) perfection of a security interest in timber to
24 be cut; and

25 (C) the effect of perfection or nonperfection and
26 the priority of a nonpossessory security interest in
27 the collateral.

28 (4) The local law of the jurisdiction in which the
29 wellhead or minehead is located governs perfection, the
30 effect of perfection or nonperfection, and the priority of
31 a security interest in as-extracted collateral.

32 (5) Notwithstanding item (1), the local laws of this
33 State shall govern the perfection, the effect of perfection
34 or nonperfection, and the priority of a security interest

1 in bondable property, as defined in Section 20-105 of the
2 Public Utilities Act.

3 (Source: P.A. 91-893, eff. 7-1-01; 92-234, eff. 1-1-02.)

4 (810 ILCS 5/9-515)

5 Sec. 9-515. Duration and effectiveness of financing
6 statement; effect of lapsed financing statement.

7 (a) Five-year effectiveness. Except as otherwise provided
8 in subsections (b), (e), (f), and (g), a filed financing
9 statement is effective for a period of five years after the
10 date of filing.

11 (b) Public-finance or manufactured-home transaction.
12 Except as otherwise provided in subsections (e), (f), and (g),
13 an initial financing statement filed in connection with a
14 public-finance transaction or manufactured-home transaction is
15 effective for a period of 30 years after the date of filing if
16 it indicates that it is filed in connection with a
17 public-finance transaction or manufactured-home transaction.

18 (c) Lapse and continuation of financing statement. The
19 effectiveness of a filed financing statement lapses on the
20 expiration of the period of its effectiveness unless before the
21 lapse a continuation statement is filed pursuant to subsection
22 (d). Upon lapse, a financing statement ceases to be effective
23 and any security interest or agricultural lien that was
24 perfected by the financing statement becomes unperfected,
25 unless the security interest is perfected otherwise. If the
26 security interest or agricultural lien becomes unperfected
27 upon lapse, it is deemed never to have been perfected as
28 against a purchaser of the collateral for value.

29 (d) When continuation statement may be filed. A
30 continuation statement may be filed only within six months
31 before the expiration of the five-year period specified in
32 subsection (a) or the 30-year period specified in subsection
33 (b), whichever is applicable.

1 (e) Effect of filing continuation statement. Except as
2 otherwise provided in Section 9-510, upon timely filing of a
3 continuation statement, the effectiveness of the initial
4 financing statement continues for a period of five years
5 commencing on the day on which the financing statement would
6 have become ineffective in the absence of the filing. Upon the
7 expiration of the five-year period, the financing statement
8 lapses in the same manner as provided in subsection (c),
9 unless, before the lapse, another continuation statement is
10 filed pursuant to subsection (d). Succeeding continuation
11 statements may be filed in the same manner to continue the
12 effectiveness of the initial financing statement.

13 (f) Transmitting utility financing statement. If a debtor
14 is a transmitting utility and a filed financing statement so
15 indicates, the financing statement is effective until a
16 termination statement is filed.

17 (g) Record of mortgage as financing statement. A record of
18 a mortgage that is effective as a financing statement filed as
19 a fixture filing under Section 9-502(c) remains effective as a
20 financing statement filed as a fixture filing until the
21 mortgage is released or satisfied of record or its
22 effectiveness otherwise terminates as to the real property.

23 (h) Bondable property. If a filed financing statement
24 relates to a security interest in bondable property and the
25 financing statement so states, it is effective until a
26 termination statement is filed.

27 (i) Without in any way detracting from the characterization
28 of bondable property as a vested property right under Section
29 20-120 of the Public Utilities Act, for purposes of this
30 Article 9 of the Uniform Commercial Code, bondable property, as
31 defined in item (8.5) of subsection (a) of Section 9-102, shall
32 constitute a general intangible. For purposes of this Article,
33 bondable property shall be in existence whether or not the
34 revenues or proceeds in respect thereof have accrued, in

1 accordance with Section 20-150 of the Public Utilities Act. The
2 validity, perfection, or priority of any security interest in
3 bondable property shall not be defeated or adversely affected
4 by changes to the financing order or to the bond charges
5 payable by any residential customer or by the commingling, by
6 an electric utility (as defined in Section 16-102 of the Public
7 Utilities Act) or by any other person responsible for
8 collecting bondable property under Section 20-150 of the Public
9 Utilities Act, of revenues received from bondable property with
10 any other funds. Any description of bondable property in a
11 security agreement or other agreement or a financing statement
12 shall be sufficient if it refers to the financing order
13 establishing the bondable property.

14 (j) In addition to the other rights and remedies provided
15 or authorized by the Public Utilities Act and by this Article,
16 when a debtor is in default under a security agreement and the
17 collateral is bondable property, then, upon application by the
18 pledgee, the Illinois Commerce Commission or any court of
19 competent jurisdiction shall order the sequestration and
20 payment to the pledgee of all collections and other proceeds of
21 such bondable property up to the value of the property. In the
22 event of any conflicts, priority among pledgees or transferees
23 shall be determined under this Article. The pledgee shall
24 account to the debtor for any surplus and, unless otherwise
25 agreed, the debtor shall be liable for any deficiency.

26 (Source: P.A. 91-893, eff. 7-1-01.)

27 Section 99. Effective date. This Act takes effect upon
28 becoming law."